UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

USF HOLLAND INC.	Employer	
and		
JENNIFER MASTER	Petitioner	Case 18-RD-2488
and		
TEAMSTERS LOCAL UNION NO. 120	Union	

DECISION AND ORDER

Petitioner seeks to decertify the Union in a unit of the Employer's office and OS&D clerical employees employed at its Coon Rapids, Minnesota facility. The Union, however, contends that the Employer's March 12, 2004[1] voluntary recognition of the Union bars the petition. The Employer took no position on the issues, but rather intends to defer to the Board's ruling.

Based on an administrative investigation, I conclude that the Union had majority status at the time of the Employer's voluntary recognition on March 12; that a reasonable period of time for bargaining had not elapsed between the Employer's voluntary recognition of the Union on March 12 and the filing of the petition on March 23; and, therefore, the petition should be dismissed.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.[2]

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[1] Unless otherwise indicated, all dates are in calendar year 2004.

[2] The Employer, USF Holland Inc., is a Michigan corporation engaged in motor freight transportation service at its Coon Rapids, Minnesota facility. During the past calendar year, a representative period, the Employer derived gross revenues in excess of $500,000 and purchased and received at its Coon Rapids, Minnesota facility goods valued in excess of $50,000 directly from suppliers located outside the State of Minnesota.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

In order to understand my conclusions, I will first summarize the evidence regarding the circumstances surrounding the Employer's voluntary recognition of the Union. In the second section of this decision, I will review the evidence and explain my conclusions regarding the recognition bar.

I. BACKGROUND

The Employer is engaged in motor freight transportation service and employs approximately 18 office and clerical employees at its Coon Rapids, Minnesota facility. In September 2003, several of these employees contacted the Union and expressed their interest in the Union. Since that time the Union has conducted an organizing campaign. In February 2004, the Union sent a letter and authorization card to employees at their homes. The authorization cards are titled "Authorization for Representation Under the National Labor Relations Act" and provide:

> I, the undersigned . . . Authorize Local 120 affiliated with the International Brotherhood of Teamsters to represent me in negotiations for better wages, hours and working conditions.

The letter outlines the benefits of becoming a Teamster and asks employees to sign the authorization card. On February 25, the Union sent a second letter and authorization card to employees requesting that the employees sign the card and return it to the Union. Subsequently, a majority of the unit employees signed and returned authorization cards to the Union.

On March 4, the Union advised the Employer of its intent to be recognized as the bargaining representative of the office employees and its desire to enter into a card check/neutrality agreement. The Employer and Petitioner allege that the Union threatened to picket the Employer if it did not agree to a card check.

According to the Petitioner, on March 5, the Employer offered its office employees a wage increase. The Union alleges that around this time the Employer also held one-on-one meetings with employees where it attempted to intimidate and coerce employees into removing their support for the Union. No unfair labor practice charges have been filed regarding these allegations. On March 7 and 8, the Union renewed its request to the Employer to sign a card check/neutrality agreement. On March 9 and 10, respectively, the Employer and Union signed a card check agreement. The agreement provides, in part:

> It is hereby understood that USF Holland, Coon Rapids, Minnesota agrees that upon a majority of the workforce of all full time and regular part time office and OS&D clerical employees employed by the employer at the Coon Rapids, Minnesota facility who signed union representation authorization cards will recognize Teamsters Local No. 120 as the exclusive bargaining representative. . . .
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> . . . .
>
> As consideration of the employer's commitments above The Union agrees that it will not engage in informational or Recognitional Picketing at The USF Holland, Coon Rapids Terminal.

Subsequently, the Employer and Union agreed that a representative from the Federal Mediation and Conciliation Service (FMCS) would verify the authorization cards on March 17.[3]

The Petitioner contends that, between March 11 and 12, two employees sent notification to the Union by certified mail that they wished to rescind their authorization cards.[4] Then on March 12, fourteen employees signed and mailed a petition to the Union. The petition provides:

> We the undersigned employees of USF Holland Motor Express – Minneapolis emphatically believe that the language used on the recently issued "recruitment" cards was deceptive and confusing. Therefore, at this time we are demanding the opportunity for a verbal explanation of the language used and a subsequent vote for any organization of union representation.

While the Union did not receive this petition until March 15, the Union admits that it generally knew about a petition being circulated on March 12. The Union states that on March 12 employees informed it about the petition. The Union states that the employees told the Union that the petition was circulated by a "company representative" and that the employees were scared and intimidated because they were told that the Employer would see the petition and know who supported the Union. The Union also alleges that, between March 10 and 12, the Employer forced one-on-one meetings with employees. None of these allegations are the subject of any unfair labor practice charges.

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[3] The Union alleges that this was the first date the Employer was available to meet and that it agreed to this late date on the condition that the Employer discontinue any unlawful conduct.

[4] It is unclear from the investigation whether the Union received the rescission requests before the card count. I note that even without the two rescinded authorization cards, the Union maintained its majority on the basis of authorization cards.

After learning that a petition was being circulated, the Union contacted the Employer and requested that the card check be moved from March 17 to March 12. The Employer agreed. The Union states that the card check was moved "to protect the employee's good will and desire in their organizing efforts." The Petitioner contends that the Union moved the card check to an earlier date because of the March 12 petition. The Petitioner further alleges that the Employer agreed to move the card check to March 12 only because the Union threatened to picket.

On March 12, a representative of FMCS reviewed the authorization cards and determined that "IBT Local 120 did indeed have a majority and will represent said employees." Representatives from the Employer and the Union were present at the card check. The Union notified employees of the results later that day.

On March 23, the Petitioner filed this decertification petition, accompanied by a sufficient showing of interest.[5]

II. ANALYSIS OF RECOGNITION BAR

The Board has long held that an employer's lawful voluntary recognition of a union bars a decertification petition for a reasonable period of time. Seattle Mariners, 335 NLRB 563, 564 (2001); Keller Plastics Eastern, Inc., 157 NLRB 583, 587 (1966). The recognition bar is based on the Board's reasoning that "[f]ollowing a lawful grant of recognition the parties are entitled to a reasonable period of time to permit them to attempt to negotiate a collective-bargaining agreement." Rockwell International Corp., 220 NLRB 1262, 1263 (1975) (footnote omitted).

The Petitioner urges the Region to find that the recognition bar is not applicable to this case because the Employer did not lawfully recognize the Union. The Petitioner relies on the following three arguments to support her position: (1) a majority of employees signed a petition on March 12 requesting an election; (2) the language of the authorization cards was deceptive and confusing; and (3) the Union threatened to picket the Union unless it agreed to a card check.

Turning to Petitioner's first argument, I conclude that the March 12 petition failed to demonstrate that the Union had lost majority support before the Employer granted recognition. While the March 12 petition was signed by more than 50 percent of employees, the petition only requested an explanation of the authorization card language and stated that the employees desired an election. The petition did not seek to rescind the authorization cards, nor did it state that the employees had changed their minds and no longer wished to be represented by the Union. Thus, I conclude that the language of the March 12 petition was insufficient to demonstrate that the Union did not have majority status on March 12.[6]

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[5] At the time the Petitioner filed the decertification petition, as well as subsequently, she was notified by the Region of her right to file 8(a)(2) or 8(b)(1)(A) charges. No such charges have been filed.

[6] I conclude that it is unnecessary to decide whether the date of the card check was advanced for the reasons cited by the Petitioner or the Union. The proper legal analysis is whether the Union had

The Petitioner next argues that the petition should not be barred because the language of the authorization cards was deceptive and confusing. However, review of the authorization cards reveals that the cards stated "clearly and unambiguously on their face that the signer designated the union as his representative." NLRB v. Gissel Packing Co. Inc., 395 U.S. 575, 596 (1969). Employees are bound by the clear language of authorization cards unless the "language is deliberately and clearly canceled by a union adherent with words calculated to direct the signer to disregard and forget the language above his signature." Id. Petitioner has not presented any evidence that the Union told employees that the authorization cards would be used solely to obtain an election. Additionally, the two letters the Union sent to the employees with the authorization cards do not negate the language of the authorization cards. Therefore, I conclude that the employees are bound by the authorization cards they signed and that the cards signed by the employees authorized the Union to represent employees for the purpose of collective bargaining.

The Petitioner's final argument that the petition should not be barred because the Union threatened to picket is unpersuasive. The Board has held that a union's threat to picket for recognition, without more, is not unlawful under the Act. International Union, United Mine Workers of America, AFL-CIO, 302 NLRB 441 (1991) (holding that threats of recognitional picketing become unlawful under Section 8(b)(7)(C) only when picketing has been conducted without a petition having been filed within a reasonable period of time).

In light of the foregoing, I find that the Union had majority status at the time of the Employer's voluntary recognition on March 12. Eleven days later the Petitioner filed the decertification petition. I conclude that the eleven days that elapsed between these events is not a reasonable period of time for the parties to attempt to negotiate a collective bargaining agreement. Particularly where, as here, the parties had not even begun their negotiations. See Rockwell International Corp., 220 NLRB 1262 (holding that a two-week period between the grant of recognition and the filing of a decertification petition was not a reasonable period of time); See also Ford Center for the Performing Arts, 328 NLRB 1, 2 (1999) (citing various factors the Board considers when determining whether a reasonable amount of time has passed). Accordingly, I will dismiss the petition, as it is recognition barred.

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majority support at the time the voluntary recognition was granted. See Bernhard-Altman Texas Corp., 366 U.S. 731 (1961) (holding that a good faith belief as to majority support is not a defense to a Section 8(a)(2) violation).

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it is, dismissed.[7]

Signed at Minneapolis, Minnesota, this 1st day of April, 2004.

/s/ Ronald M. Sharp

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[7] Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision must be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099-14th Street N.W., Washington, DC 20570. The request must be received by the Board in Washington by **April 15, 2004.**